

BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS

STATE OF IDAHO

ORIGINAL

In re the Psychologist's License	)	
of MAXIMO JOSE CALLAO, Ph.D.,	)	Case No. BOL 83-204
License No. PSY-55,	)	
	)	<u>FINAL DETERMINATION</u>
Respondent.	)	
	)	

This matter came on regularly for hearing before the duly appointed hearing officer of the Board of Psychologist Examiners, Jean R. Uranga on 28 July 1983, Both the respondent and the Bureau of Occupational Licenses thereafter filed briefs with the hearing officer who subsequently made Findings of Fact, Conclusions of Law, and forwarded to the Board a proposed Order. Having read the entire record in this case and having heard statements made in extenuation and mitigation by the respondent, the Board, in open meeting, adopted the proposed Findings of Fact and Conclusions of Law prepared by the hearing officer as its own, the findings being incorporated herein as if fully set forth.

IT IS HEREBY DETERMINED by the unanimous decision of the Board of Psychologist Examiners as constituted for this case, that the respondent did violate his ethical duties with respect to two clients; and that said violation constitutes the grounds for the imposition of penalties as provided by Idaho Code § 54-2309(e).

WHEREFORE, IT IS HEREBY ORDERED THAT:

(1) The psychologist license of the respondent MAXIMO JOSE CALLAO, Ph.D., be suspended as of the Board meeting of 24 September 1983. Said suspension shall end at the successful completion by the respondent of a six-month course of psycho-therapeutic treatment with a licensed psychologist approved by the Board. The scope of such therapy shall be limited to dealing with the issue of the respondent's judgment with respect to the welfare of consumers of psychological services. The course of therapy shall continue during the entirety of said six-month period. Therapy shall begin on or before 7 November 1983. The Board will not approve, either as therapist or as the supervisor mentioned below in paragraph (2), any present or former colleague of the respondent or former student. Said therapist shall submit a written report to the Board concerning the progress of the respondent in this respect every sixty days during the period of suspension.


(2) The respondent may not hold himself out as a psychologist, but he may enter into therapist-client relationships under the direct supervision and control of a licensed psychologist who shall be approved by the Board at the same time as the respondent's therapist mentioned above. Said supervision shall be conducted in accordance with Board rules on the supervision of unlicensed persons. The

therapist and the supervisor shall not be the same person or members of the same firm.

(3) The respondent is required to provide to the Board within the six month period mentioned in paragraphs (1) and (2) above, a paper outlining the ethical responsibilities of psychologists with regard to the welfare of clients.

Respondent's failure to complete successfully the terms of this decision as determined by the Board shall result in a continuation of the period of suspension or, for good cause shown, a revocation of respondent's license.

DATED This 14<sup>th</sup> day of October, 1983.

  
Linda Hatzenbuehler, Chair  
Board of Psychologist Examiners



1 Bureau was allowed to file an Amended Complaint dated July 14,  
2 1983, alleging an additional count that Respondent had engaged  
3 in unethical practices by continuing to treat a client, Dan  
4 Edgerton, during the period of time Respondent was engaging in  
5 sexual intimacies with the client's spouse.

6 II

7 Respondent in his Answer to the original Complaint, dated  
8 July 6, 1983, at the time of the hearing, and in his Closing  
9 Brief, admitted the following facts:

10 1. Respondent is the holder of Idaho psychologist  
11 license No. PSY-55.

12 2. Respondent had engaged in sexual intercourse with Ms.  
13 Edgerton, but expressly denied that Ms. Edgerton was his  
14 client at any time during the course of their intimate rela-  
15 tionship.

16 3. As alleged in Count II of the Amended Complaint, Dan  
17 Edgerton was a psychological client of Respondent from approxi-  
18 mately January, 1982, through June, 1982, during which time,  
19 Respondent was having a sexual relationship with Dan Edger-  
20 ton's wife.

21 III

22 In addition to these admitted facts, the following facts  
23 were undisputed at the hearing:

24 1. Molli Edgerton began receiving psychological therapy  
25 from Respondent in January, 1981, after being referred to  
26 Respondent by her husband, Dan Edgerton. (Tr., p. 14, Ls.  
27 7-9.).

1           2. From January 28, 1981, through December 23, 1981,  
2 Respondent had 23 sessions with Ms. Edgerton. (Tr., p. 80,  
3 Ls. 18-19).

4           3. Approximately eight months after Ms. Edgerton had  
5 begun therapy, Respondent embraced her after one therapy  
6 session and embraced her after every session thereafter.  
7 (Tr., p. 16, Ls. 3 and 13-14).

8           4. Following a therapy session on December 9, 1981,  
9 Respondent walked Ms. Edgerton to her car, and in discussing  
10 her Italian heritage said: "Oh, so that's what it is about  
11 you that turns me on." (Tr., p. 18, Ls. 16-24). Respondent  
12 then asked Ms. Edgerton to have a drink with him before the  
13 holidays, and joked that they could get a room at the Ramada.  
14 (Tr., p. 19, Ls. 2-9).

15           5. Respondent and Ms. Edgerton went to the Red Lion  
16 Riverside for drinks on December 23, 1981, following a therapy  
17 session. (Tr., p. 19, Ls. 16-17 and p. 21, Ls. 1-16; Tr., p.  
18 81, Ls. 4-7).

19           6. At that time, Ms. Edgerton gave Respondent a card  
20 which included mistletoe and they mutually agreed that they  
21 were each physically attracted to the other. (Tr., p. 22, Ls.  
22 10-25; Tr., p. 83, Ls. 21-24).

23           7. On December 23, 1981, Respondent and Ms. Edgerton  
24 engaged in sexual intimacies including kissing and fondling at  
25 the Red Lion Riverside, for two to two and one-half hours.  
26 (Tr., p. 26, Ls. 8-21).

27           8. Respondent and Ms. Edgerton saw each other again on  
28 or about January 8, 1982, to discuss a class schedule, and

1 January 19, 1982, for an appointment during which the same  
2 types of sexual intimacies occurred. (Tr., p. 29, Ls. 1-16;  
3 Tr., p. 86, Ls. 5-22).

4 9. Respondent and Ms. Edgerton first engaged in sexual  
5 intercourse on January 19, 1982. (Tr., p. 27, L. 5).

6 10. The personal and sexual relationship between Respon-  
7 dent and Ms. Edgerton continued for almost 1 1/2 years, ending  
8 May 7, 1983. (Tr., p. 43, L. 18 and p. 48, L. 10).

9 11. During their relationship, Respondent and Ms. Edger-  
10 ton engaged in several activities together, including fencing,  
11 cross-country skiing, travel, attending parties and having  
12 lunch and dinner. (Tr., p. 40, L. 20 and p. 41, Ls. 1-25 and  
13 p. 42, Ls. 1-11; Tr., p. 91, Ls. 15-25).

14 12. After January 19, 1982, Respondent and Ms. Edgerton  
15 continued to have regularly scheduled counseling appointments  
16 at Respondent's office, although the major purpose of such  
17 appointments was to continue their sexual relationship and  
18 during which they engaged in sexual intercourse. (Tr., p. 30,  
19 Ls. 1-6; Tr., p. 89, Ls. 8-12).

20 13. On December 23, 1981, Ms. Edgerton was approximately  
21 24 years old and felt awed by Respondent because of his age,  
22 his status as her therapist and counselor, and because of his  
23 superior status monetarily, emotionally and academically.  
24 (Tr., p. 57, Ls. 6-21).

25 IV

26 The major dispute with respect to Count I of the Amended  
27 Complaint is whether or not Ms. Edgerton was a client of  
28 Respondent's at any time during which sexual intimacies were

1 occurring. Respondent claims on December 23, 1981, he told  
2 Ms. Edgerton that "if any sexual intimacy would occur, then I  
3 would have to change the relationship." (Tr., p. 84, Ls.  
4 3-10). Respondent further testified that he felt he had com-  
5 plied with Principle 7-C of the Psychologist's Code of Ethics  
6 by attempting to terminate the client-counselor relationship  
7 on December 23, 1981. (Tr., p. 85, Ls. 17-25). Respondent  
8 also stated that he and Ms. Edgerton again discussed termina-  
9 tion of the client-counselor relationship, and on January 19,  
10 1982, and more so on January 20, 1982, Respondent and Ms.  
11 Edgerton decided ". . . the client-counselor relationship  
12 could no longer exist and it had to be radically changed and  
13 it had to be technically changed." (Tr., p. 87, Ls. 12-25 and  
14 p. 88, Ls. 1-5). However, Respondent also admitted that he  
15 told his colleagues that a sexual relationship occurred Janu-  
16 ary 19, 1982, and he terminated the client-counselor relation-  
17 ship on January 20, 1982. (Tr., p. 85, Ls. 11-25).

18 Ms. Edgerton admitted that on December 23, 1981, Respon-  
19 dent discussed his bondage to his ethics, but she indicated  
20 she did not fully understand. (Tr., p. 23, Ls. 8-14 and p.  
21 35, Ls. 3-14). She admitted that she participated voluntarily  
22 in sexual intimacies on December 23, 1981, and expressed con-  
23 cern at losing him as a therapist. (Tr., p. 36, Ls. 10-19).  
24 She also testified that she was not sure if she still consid-  
25 ered herself to be Respondent's client after January 19, 1982.  
26 Even though they continued to discuss some of the same issues,  
27 the major purpose of the appointments after January 19, 1982,  
28 was to be together. (Tr., p. 38, L. 14 and p. 39, Ls. 2-17).



1 Based upon this conflicting evidence, the Hearing Officer  
2 finds that the client-counselor relationship between Respon-  
3 dent and Ms. Edgerton terminated on or around January 20,  
4 1982. However, the Hearing Officer believes the weight of the  
5 evidence indicates that Ms. Edgerton was a client of Respon-  
6 dent at the time the first sexual intimacies occurred on Decem-  
7 ber 23, 1981, and at the time of the first sexual intercourse  
8 on January 19, 1982. In fact, the first sexual intimacies on  
9 December 23, 1981, occurred immediately following a counseling  
10 session and after Ms. Edgerton had been a client of Respon-  
11 dent's for almost one year.

12 V

13 In addition to evidence related to the allegations of the  
14 Amended Complaint, Respondent submitted the testimony of two  
15 witnesses, Richard Hart and David Torbet, and one large docu-  
16 mentary exhibit, Respondent's Exhibit A, regarding his educa-  
17 tional and professional background and reputation. This evi-  
18 dence establishes that Respondent is a qualified and well  
19 respected practitioner and prior to the present Complaint, had  
20 an unblemished record with no other disciplinary or ethical  
21 problems.

22 CONCLUSIONS OF LAW

23 VI

24 Pursuant to Idaho Code Sec. 54-2309(e), the Board of  
25 Psychologist Examiners may revoke a psychologist's license if  
26 a licensee is "found guilty by the board of the unethical prac-  
27 tice of psychology as detailed by the current, and future  
28 amended, ethical standards of the American Psychological

1 Association." In addition, pursuant to Idaho Code Sec.  
2 54-2305(c), the Board of Psychologist Examiners also has the  
3 authority to revoke or suspend the license of a psychologist  
4 and to conduct hearings in connection therewith.

#### 5 VII

6 Respondent has admitted the following conclusions of law:

7 1. Respondent's license is subject to the provisions of  
8 Chapter 23, Title 54, Idaho Code; the administrative rules  
9 promulgated thereunder by the Board of Psychologist Examiners;  
10 and the Rules of Practice and Procedure promulgated by the  
11 Bureau of Occupational Licenses, State of Idaho.

12 2. Sexual intimacies with clients are unethical under  
13 the standards of the American Psychological Association,  
14 specifically Principles 1(c), 2(b), 3, 7(c), 8(c), of the  
15 Ethical Standards of Psychologists, 1963 edition, and Prin-  
16 ciple 6a of the Ethical Standards of Psychologists, (1979  
17 ed.), copies of which standards are attached to the original  
18 Complaint.

19 3. Engaging in sexual intimacies with the spouse of a  
20 client is unethical.

21 4. Pursuant to Idaho Code Sec. 54-2309(e), a licensed  
22 psychologist found to have engaged in unethical practices by  
23 the Board may have that license revoked, suspended or other-  
24 wise acted upon.

#### 25 VIII

26 Based upon the foregoing Findings of Fact and Conclusions  
27 of Law, the Hearing Officer concludes that:

1. With respect to Count I of the Amended Complaint, Respondent engaged in unethical practices by engaging in sexual intimacies with a client; and

2. With respect to Count II of the Amended Complaint, Respondent engaged in unethical activities by engaging in sexual intimacies with the spouse of a client.

## IX

Severe disciplinary action, including license revocation, has been upheld against licensed professionals who have been charged with engaging in sexual activities, or taking sexual liberties, with clients. Cardamon v. State Board of Optometric Examiners, 441 P.2d 25 (Colo. 1968); Nevada State Board of Chiropractic Examiners v. Babtkis, 432 P.2d 498 (1967); Bernstein v. Board of Medical Examiners, 22 Cal.Rptr. 419 (1962).

## PROPOSED ORDER

Based upon the foregoing, and considering the age of Ms. Edgerton, the voluntariness and encouragement by her of the relationship and the background of Respondent, the Hearing Officer proposes that, with respect to Count I of the Amended Complaint, Respondent's psychologist license be suspended for a fixed period of time to be set by the Board, in its discretion, and with respect to Count II of the Amended Complaint, Respondent be formally reprimanded.

1 DATED This 15th day of September, 1983.

2  
3 Jean R. Uranga  
4 JEAN R. URANGA  
5 Hearing Officer

6 CERTIFICATE OF SERVICE

7 Pursuant to IDAPA 24.20.A.4.S, the Rules of Procedure of  
8 the Bureau of Occupational Licenses, I hereby certify that on  
9 this 15th day of September, 1983, I served the foregoing HEAR-  
ING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRO-  
POSED ORDER by hand-delivering copies thereof to:

10 Chuck Goodenough  
11 Deputy Attorney General  
12 Statehouse  
Boise, Idaho 83720

13 Pat Urquhart  
14 Attorney at Law  
Derr Building  
817 West Franklin  
Boise, Idaho 83702

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